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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,761	10/31/2001	Thomas C. Amon	EVU-02-PUSA	5829
23410	7590	11/04/2005	EXAMINER	
COHEN SAKAGUCHI & ENGLISH LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614			REILLY, SEAN M	
			ART UNIT	PAPER NUMBER
			2153	
DATE MAILED: 11/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/001,761	AMON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sean Reilly	2153	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/15/2005</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

A new Examiner has been assigned to this application.

This Office action is in response to Applicant's amendment and request for reconsideration filed on 8/23/2005. Claims 1-34 are presented for further examination. All independent claims have been amended.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 8/15/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Affidavits filed under 37 CFR 1.131***

2. As indicated by the previous Examiner, the Affidavits and arguments filed under 37 CFR 1.131 on December 13, 2004 have been considered and are effective to establish a reduction to practice date of September 5, 1996, for claims 1-6. The Affidavits and arguments also establish a reduction to practice date of September 5, 1996 for newly added claims 12, 16, 20, 21, 25, 26, and 27. The affidavits however, do not describe that Applicant reduced to practice the inventions described in claims 13-15, 17-19, 22-24, 28-29, because they do not describe anything related to the storage of state information or dynamic intervals. Further discussion of the submitted affidavits is moot in view of the outstanding rejections which predate Applicant's alleged date of reduction to practice on 9/5/1996.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohda et al.

(Ubiquitous advertising on the WWW: Merging advertisement on the browser; hereinafter Kohda) and Angles et al. (U.S. Patent Number 5,933,811; hereinafter Angles).

4. With regard to claims 1-4, 20, 25, and 31-34, Angles disclosed an system for delivering information across a computer network, comprising:

- a computer network (see Figure 4); and
- an information server (Content Provider Computer, Figure 4) for receiving a request for user-selected information from a client program (Col 7, lines 53-55 or Col 19, lines 19-21);
- the server being configured to transmit a provider-selected commercially-sponsored message (embedded advertisement, Col 21, lines 38-40) to the client program for display, in response to the request (Col 7, lines 57-60 and Col 21, lines 34-52).

Angles disclosed the invention substantially as claimed however, Angles failed to specifically recite providing the sponsored message *if no qualifying provider-selected commercially-sponsored message has been previously transmitted to the client program.*

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Nonetheless providing advertisements to users at defined intervals in response to requests was widely known in the art at the time of the invention, as evidenced by Kohda. In an analogous web advertising system, Kohda disclosed serving ads to clients in response to a webpage request (Section 2.2). Kohda further disclosed sending the advertisements at some defined interval, as opposed to continuously, in response to each request (section 2.4). Kohda disclosed that it was advantageous to not send advertisements continuously since such a configuration allows an advertiser to remain competitive with other advertisers (section 2.4). Additionally it would have been advantageous to not serve ads continuously in response to every request so that users do not become annoyed with an overwhelming amount of advertisements. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to serve advertisements at regular intervals within Angles system, in order to 1) remain competitive in the market place and 2) not overwhelm users.

5. With regard to claims 12, 16, 21, and 27, Angles disclosed the provider-selected commercially-sponsored message that the server is configured to transmit to the client program for display is formatted for display in a browser window (e.g. HTML, Col 19, lines 29-31).

6. With regard to claims 13-15, 17-20, 22-25, and 28-30, Angles disclosed maintaining state information on the client (e.g. in a cookie, Col 6, lines 59-61) or at server (e.g. in a database Col 18, lines 61-64).

7. With regard to claim 26, Kohda disclosed using any type of interval to deliver advertisements (Section 2.4). Further dynamic intervals were well known in the art at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of

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the invention to use a dynamic interval within the combined system, so that system can dynamically adapt to changing events, such as the time of day or demand on the server.

***Response to Arguments***

8. Applicant's arguments are noted however they are moot in view of the new grounds of rejection set forth.

***Conclusion***

9. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

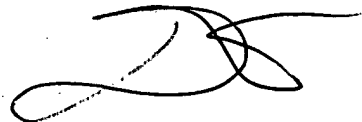
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 10/27/2005

  
Dang C. Dinh  
Primary Examiner